

STATINTL

JUDGE QUESTIONS DODD DATA LEAK

Says Senator's Ex-Aide Had
'No Ethical Duty' to Press

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WASHINGTON, June 14—A Federal judge declared today that a former aide of Senator Thomas J. Dodd had "no ethical duty" to "abstract documents" from the Senator's files and turn them over to the columnists Drew Pearson and Jack Anderson.

Thus the Connecticut Senator apparently won an important point in his \$2-million libel and conspiracy suit against the columnists who write "Washington - Merry - Go-Round."

In the first claim of his complaint, Senator Dodd charged that the columnists "unlawfully conspired" to injure him by inducing former employees to remove documents from his file, copy them and surreptitiously replace the originals after giving the copies to the columnists.

During preliminary sparring in Federal District Court here today, John F. Sonnett, attorney for the Democratic Senator, told the court that James P. Boyd, former administrative assistant to Mr. Dodd, had admitted during pretrial depositions that he had taken and reproduced the documents.

Interrupted by Judge

After Mr. Sonnett had alluded several times to this admission, Warren Woods, attorney for Mr. Anderson, said Mr. Boyd was legally obliged to reveal the Senator's alleged wrongdoing.

If Mr. Boyd had not divulged the Senator's alleged misconduct in office, Mr. Woods argued, he would have opened himself to a charge of misprision (concealment) of felony.

Judge Alexander Holtzoff interrupted to say that if Mr. Dodd had committed a felony and his aide knew about it, then Mr. Boyd was obligated to tell the district attorney, the Federal Bureau of Investigation or other authorities.

He was under no obligation to inform the public, Judge Holtzoff said, adding: "And after all, the press is part of the public."

Furthermore, the judge said, Mr. Boyd had "no ethical duty to abstract documents from the files."

Not 'Unduly Prolix'

Senator Dodd also won a tactical skirmish when Judge Holtzoff denied a motion by the columnists' attorneys that the suit be dismissed on the ground that the complaint was long, repetitious and redundant and so violated a court rule requiring it to be "short and plain."

The Judge said he was unable to say the 17-page complaint was "unduly prolix," because what is prolix on one case may not be so in another.

During argument on this motion, Mr. Woods chided Mr. Sonnett for dropping on May 26 all but four of the 14 claims for damages in the original complaint of May 6.

Mr. Woods noted that the amended complaint dropped claims of libel based on allegations by the columnists that the Senator had received favors for intervening in the award of Government contracts and had diverted campaign contributions to his private use.

Called 'Errand Boy'

Aside from initial conspiracy claim, the amended complaint is based largely on the columnists' allegations that Mr. Dodd received "expensive gifts" for acting as an "errand boy" for Gen. Julius Klein, head of a Chicago public relations concern, who is a registered agent for the West German Government.

There is also a claim accusing the columnists of falsely alleging that the Senator "acted in cooperation" with Michel Struelens, an agent for Katanga province, in 1961 to frustrate United States policy in the Congo.

Sought Early Trial

Mr. Sonnett told the court he had "cut" the complaints to the "hard core" issues and reduced the claim for damages from \$5-million to \$2-million solely in the hope of getting the case to trial by July.

Judge Holtzoff dashed that hope when he said he would be on vacation in July and that he did not believe the case was nearly "ripe" for trial.

"The issues should be joined first," he said with a smile.

The Judge left it to the two lawyers to agree on a date for taking further depositions from Mr. Boyd and the first deposition from Senator Dodd. Mr. Woods accused Mr. Sonnett of "filibustering" in his questioning of Mr. Boyd, who has been the only witness questioned in three sessions.

After some haggling, Mr. Woods agreed to make available to Mr. Sonnett the documents in Mr. Boyd's possession relating to General Klein and also a copy of Mr. Dodd's in-

come tax return for 1961.

Mr. Sonnett argued, that, under the Supreme Court's decision in Sullivan v. The New York Times, it was necessary to prove actual malice to collect damages. The Court said in that decision that malice was lying or reckless disregard of truth.

He said the illegal possession and publication of figures from the tax return showed the columnists acted with malice. As for their allegations about the Dodd-Klein relationship, Mr. Sonnett said, "They didn't even quote the stolen documents correctly. They were so malicious they had to distort the text."

Therefore, he said, he wanted the documents in Mr. Boyd's possession to note the underlinings, which he believed would demonstrate malice in the selection of material.

But Mr. Sonnett also agreed to make available to Mr. Woods the Klein documents in Mr. Dodd's files.

Meanwhile, Matthew F. McGuire, chief judge of the United States District Court here, placed Judge Holtzoff in full charge of the case. He will rule on pre-trial motions and depositions and preside at the trial.